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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,701	02/06/2003	Gilles Simard	5489-98"US"	4145
7590	11/23/2005		EXAMINER STERLING, AMY JO	
David M. Carter Carter & Schnedler, P.A. 56 Central Avenue, Suite 101 P.O. Box 2985 Asheville, NC 28802			ART UNIT 3632	PAPER NUMBER

DATE MAILED: 11/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/813,701	<b>Applicant(s)</b> SIMARD, GILLES	
	<b>Examiner</b> Amy J. Sterling	<b>Art Unit</b> 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This is the **Final Office Action** for application number 10/813,701 Attachment Bracket for Shelf Support System, filed on 2/6/03. Claims 1-21 are pending. This **Final Office Action** is in response to applicant's reply dated 9/19/05. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Applicant's amendment necessitated any new ground(s) of rejection presented in this Office action.

### ***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Specification***

The disclosure is objected to because of the following informalities:

The Abstract appears to have more than 150 words.

The specification is also objected to because it appears to be missing Section (b) of the list below, this application being a continuation of now abandoned application 09/776,321. Appropriate correction is required.

### **Abstract**

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)),

and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or

REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a).

"Microfiche Appendices" were accepted by the Office until March 1, 2001.)

(f) BACKGROUND OF THE INVENTION.

(1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

(g) BRIEF SUMMARY OF THE INVENTION.

(h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(i) DETAILED DESCRIPTION OF THE INVENTION.

(j) CLAIM OR CLAIMS (commencing on a separate sheet).

(k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

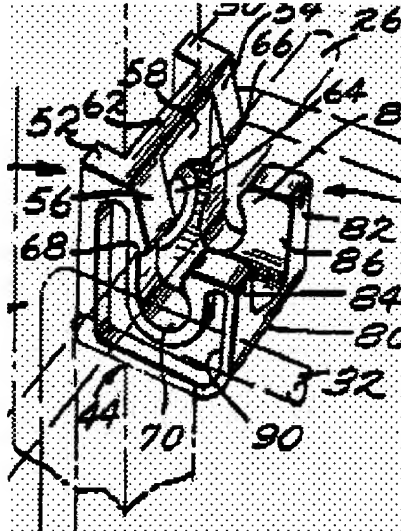
Claim 2 recites, "a second pimple" and this is unclear since it suggests that there is a "first pimple" which has not yet been recited.

***Claim Rejections - 35 USC § 102***

Claims 1-4, 8-11 and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 4735325 to Remmers.

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The patent to Remmers discloses an attachment bracket (42) having a back wall (62) defining a bottom, a top and vertical edges, and side arms (44), extending laterally from the vertical edges of the back wall, and a first and second protrusion (50, 52), located on the junction of the inner surfaces of the back wall of the bracket and wherein the inner surface of the side arms have a pimple (56) at a predetermined distance from the back wall. Remmers also teaches wherein the side arms have a slot (70) with friction edge portions (66, 68, 88).



### ***Claim Rejections - 35 USC § 103***

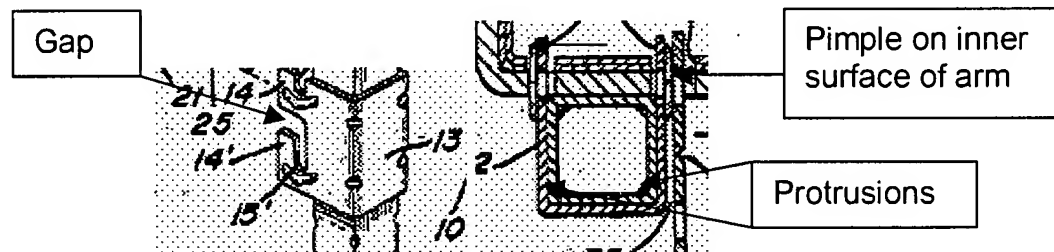
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1, 5-8, 12-15 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 4592286 to Trubiano, and in view of United States Patent No. 4735325 to Remmers.

Trubiano discloses applicant's basic inventive concept including an attachment bracket having a back wall (13) defining a bottom, a top and vertical edges, and side arms (14) extending laterally from the vertical edges of the back wall, first and second protrusions (See Drawing Below) located on the inner surfaces of the bracket and wherein the side arm has a pimple (See Figure Below) on an inner surface at a predetermined distance from the back wall, each of the side arms having an upper and lower slot (15, 15'), the upper slots being open on each arm. Trubiano also discloses wherein each of the side arms has a gap (See Drawing) open at a lateral edge thereof.



Trubiano does not teach wherein the slots have a friction edge portion.

Remmers teaches an attachment bracket with a back wall, bottom, top and vertical edges and side arms extending laterally from the vertical edges of the back wall. Remmers also teaches that the arms have a slot (70) that have friction edge portions, used in order to frictionally hold the desired device within the slot. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was

made from the teachings of Remmers to have used a slot with a friction edge in order to more firmly hold the desired device within the slot.

### ***Response to Arguments***

With respect to the rejection to Remmers, the applicant has argued that the "projections" (50, 52) do not engage the post and therefore the rejection is improper. (See Generally, Remarks, page 7). This is unpersuasive in that the applicant is arguing limitations narrower than claimed. First of all, the rejection states "protrusions" (50, 52) and it is assumed that this is what the applicant intended to argue, since the rejection does not state a "projection". Secondly, the claimed limitation is that the "protrusions" are adapted for mating engagement with a corresponding indentation in the post for being vertically installed thereto. In response to this limitation, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Claim 1 does not require any structural limitations other than a "protrusion", which by definition is met by the Remmers reference as shown above.

The applicant has also argued that the projections (54) and (56) do not engage the post. This is also unpersuasive for the same reasons as cited above. In the absence of any structural limitation on the pimple, except that it be "located a



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predetermined distance from the back wall", the limitation does not require "pimple" contact a "post".

The applicant has also argued that the protrusions are not located on an inner surface. This is unpersuasive in that "inner" and "outer" are relative terms, meaningful only when they are in reference to another element. For example, the "inner surface" could be recited to be the "surface closest to the post", but no such limitation exists and therefore, the limitation was not read into the claims. The inner surface could be inner with regards to the post or inner with regards to another element as shown above in the Tribiano reference, wherein the inner surface is inner with regards to the bridge plate 25. The applicant has also argued that the Tribiano reference fails to teach a pimple on the inner surface of the back wall. Again, this is argued narrower than claimed.

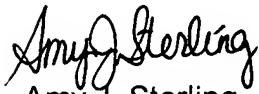
### ***Conclusion***

**THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later

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than SIX MONTHS from the date of this final action. Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 571-272-6823. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached at 571-272-6788. The fax machine number for the Technology center is 571-273-8300 (formal amendments) or 571-273-6823 (informal amendments and communications). Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 571-272-3600.

A handwritten signature in cursive script, appearing to read "Amy J. Sterling".

Amy J. Sterling

11/19/05